



**Comments of the
Illinois Competitive Energy Association
To the Illinois Power Agency's
Draft 2012 Power Procurement Plan**

The Illinois Competitive Energy Association (“ICEA”) is an Illinois-based trade association of some of the largest and most active alternative retail electric suppliers (“ARES”) seeking to preserve and enhance opportunities for customer choice and competition in the Illinois electric market.¹ Our members serve residential, commercial, industrial, and public sector customers, ranging from Main Street to the Fortune 500, including the manufacturing industry; retail businesses; the State of Illinois and local units of governments; cultural, sporting, and educational institutions; as well as hospitals, hotels, and restaurants. Our members also provide service to certain Municipalities that have enacted Governmental Aggregation programs. ARES provide more than half of the electricity consumed in Illinois.

ICEA appreciates the opportunity to comment on the Illinois Power Agency’s (“IPA”) Draft 2012 Power Procurement Plan (“the Plan”). ICEA has a direct interest in the Plan because the IPA’s structure for procuring electricity for eligible customers impacts those customers’ ability to benefit from retail competition and a choice in their electric supplier. Additionally, the

¹ ICEA’s members include Ameren Energy Marketing, Champion Energy Services, Constellation NewEnergy, Direct Energy Services, Exelon Energy Company, FirstEnergy Solutions, Integrys Energy Services, MC Squared Energy Services, Midwest Generation-Edison Mission Solutions, Nordic Energy Services, and Reliant.



procurement of renewable energy resources under the Plan increases risk for ARES and potentially impacts the costs paid by their customers.

I. The IPA's Proposed Procurement Approach Deters Robust Retail Competition

The current procurement approach for eligible customers creates a barrier to achieving full, sustainable competition by procuring too infrequently and relying too heavily on longer-term contracts that can create a “boom or bust” cycle for ARES and send incorrect price signals to consumers. The IPA's three-year ladder approach to procuring electricity relies on “point-in-time” pricing, which essentially guarantees that the default rate fails to reflect current wholesale market prices over the course of the procurement period.

At any given time, the default pricing may be significantly above current wholesale prices, which seemingly provides an opportunity for ARES to effectively compete by “beating” the default rate. That model is unsustainable, however, because at any other given point in time the default rate could be significantly lower than current wholesale prices, making it difficult for ARES to properly manage risk and encouraging consumers to return to utility service. Default pricing that is continuously reflective of current wholesale prices provides the best environment for sustainable, robust retail competition.

Continued progress towards a robust competitive electric market best helps consumers balance price risk and budget certainty. Robust retail competition puts downward pressure on prices, offers a variety of product options for end-use customers, increases conservation



incentives, and enhances customer service. As acknowledged by the IPA in its draft Plan, “recent developments indicate that significant reductions to the barriers to retail competition in residential markets are on the near-term horizon.”² The IPA has also recognized that to protect consumers and encourage residential retail competition, the IPA should procure power more frequently. For example, in its 2009 draft plan, the IPA recognized that “a single annual procurement event increases portfolio risk by relying on market timing”³ In its Order approving the 2011 Procurement Plan, the Commission noted that the IPA believes eligible retail customers may benefit from more frequent procurements, and future plans may move towards a multiple or continuous procurement process.⁴

Given the recent positive developments in residential shopping and the IPA’s repeated acknowledgement that more frequent procurements are better for consumers, there is simply no reason to continue with the current ladder procurement approach. Now is the time to increase the frequency of the procurements and shorten the contract lengths to allow the default price to be more reflective of current market prices and enhance competition.

² Plan at 9.

³ *Illinois Power Agency’s Initial Power Procurement Plan to the Illinois Commerce Commission*, at 2 (Oct. 20, 2008).

⁴ See also *Final Order*, Docket No. 10-0563, at 102 (Ill. Comm. Comm’n Dec. 21, 2010) (“While its proposed optional incremental events may not be frequently used, the IPA believes eligible retail customers may benefit where more frequent procurements result in a lower price for energy. In the IPA’s view, this option should also remain open should future procurement plans move towards a multiple or continuous procurement”).



II. The IPA Procurement Plan Should Not Solicit Bids for Long-Term RECs

In its draft Plan, the IPA proposes to solicit bids for RECs for periods up to 20 years.⁵ ICEA opposes this proposal because it provides no benefits to consumers but will assuredly increase prices for ARES' customers. By law, at least 50% of ARES' renewable portfolio standard ("RPS") compliance obligation must be satisfied via payment of alternative compliance payments ("ACPs").⁶ The ACP rate is directly derived from the amount eligible customers pay for renewable resources procured by the IPA. Longer-term REC contracts are inherently more expensive, and projecting both the volume requirements and REC market prices for anything longer than a year is fundamentally risky, which the IPA itself admits.⁷

First, the IPA acknowledges that "meeting the RPS obligation is growing more complicated over time with volume requirements, budgets, and the costs of pre-existing contract obligations all operating in a variable manner."⁸ It further notes that as retail competition develops in Illinois, the RPS volume goals, as well as the available budget, will diminish over time.⁹

In addition to acknowledging the complications and risks associated with the renewable resources procurement, the IPA recognizes that in prior years, the RPS obligation was

⁵ Plan at 50.

⁶ 220 ILCS 5/16-115D(d).

⁷ See *supra* n.3 and accompanying text.

⁸ Plan at 49.

⁹ *Id.* at 48.



successfully met through solicitations of annual RECs only.¹⁰ Furthermore, recent short-term wind RECs have been procured for under \$1/REC. While solar RECs are less plentiful—and thus more expensive—the short-term market prices for solar RECs have been declining steadily in other states.¹¹

Yet the IPA inexplicably proposes to complicate the REC procurement process and increase costs by proposing terms as long as 20 years. The IPA has provided no explanation whatsoever as to why it seeks to increase the REC contract terms, let alone made a case that it meets the requirement to procure “cost-effective” renewable energy resources.¹² Because the REC market is not visible beyond a few years, there is no way for the IPA to create a reliable benchmark for long-term RECs. This lack of long-term reliable price benchmarking in turn makes it impossible for the IPA to demonstrate that its Plan meets the “cost-effective” test.

Finally, the IPA already has a mechanism to procure long-term REC contracts that places no additional risk on Illinois consumers. The Renewable Energy Resources Fund was established for the IPA to procure long-term renewable energy resources contracts without further increasing the costs and price risks to customers.¹³ Given that statutory obligation, it is

¹⁰ *Id.* at 49.

¹¹ *Id.*

¹² “The procurement plans shall include cost-effective renewable energy resources.” 20 ILCS 3855/1-75(c).

¹³ “The Agency shall procure renewable energy resources at least once each year in conjunction with a procurement event for electric utilities . . . and shall, whenever possible, enter into long-term contracts.” *Id.* at 1-56(c).



not justifiable to allow the IPA to use this process to enter into long-term contracts that by its own admission are risky and more costly.

III. The IPA Should Eliminate the Plan's Clean Coal Requirement

The draft Plan includes a proposal to procure up to 250 MW of electricity generated by a clean coal facility.¹⁴ Contrary to the IPA's assertions, the procurement of clean coal is not required by the Illinois Power Agency Act ("the Act").¹⁵ The requirement exists *only at such time* as the utilities enter into sourcing agreements with the "initial clean coal facility," which is a defined term under the Act. This conclusion is supported by the fact the IPA did not include clean coal in its two prior procurement plans, despite the fact that the clean coal portfolio standard provisions in the Act were effective at those times.¹⁶ Furthermore, no parties in the procurement plan proceedings before the Commission raised any clean coal issues, nor did the Commission itself in its Orders approving the plans.¹⁷ No party asserts that such an "initial clean coal facility" exists. Without it, and a resulting statutory obligation to include clean coal in the procurement plan, the IPA has absolutely no basis to subject eligible customers to the exorbitant increased costs, and even greater cost risk on ARES' customers.

¹⁴ Plan at 54-55.

¹⁵ 20 ILCS 3855/1-1 *et seq.*

¹⁶ See *Ill. Power Agency Power Procurement Plan to the Ill. Comm. Comm'n*, Docket No. 09-0373 (Ill. Comm. Comm'n, Sept. 30, 2009); See *Ill. Power Agency Power Procurement Plan to the Ill. Comm. Comm'n*, Docket No. 10-0563 (Ill. Comm. Comm'n, Sept. 29, 2010).

¹⁷ *Final Order*, Docket No. 09-0373 (Ill. Comm. Comm'n, Dec. 29, 2009); *Final Order*, Docket No. 10-0563 (Ill. Comm. Comm'n, Dec. 21, 2010).



Since there is no requirement to include clean coal in the procurement, the IPA can only do so provided it will “ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability.”¹⁸ There can be no credible argument made by any party that electricity from a clean coal facility meets the “lowest total cost” requirement of the Illinois Public Utilities Act (“PUA”), and indeed, the IPA in its draft plan didn’t even try. Because no clean coal facility currently exists, it is unclear how the IPA would even establish the required benchmark. The cost study filed at the Commission by the Taylorville Facility showed costs more than \$8 billion above market over the next 30 years and should serve as proof that the lowest cost over time requirement simply cannot be met by any plan that proposes to include the procurement of power from clean coal facilities.

Because the clean coal portfolio standard applies a cost cap for clean coal procurement on the eligible customers, but none for the ARES’ customers, the IPA’s proposal places even greater risk on the latter. It is unlikely that 250 MW of electricity from clean coal – because of its significantly above market costs – could be procured over the next 20 years by eligible customers alone because of the statutory cost cap. This is especially true given the recent positive developments in retail competition and potential for significantly increased shopping among the residential customers over those years. Given the existing language of the clean coal portfolio standard and failure of the legislation to provide any protection to ARES’ customers, it

¹⁸ 220 ILCS 5/16-111.5(j)(ii); 20 ILCS 3855/1-5.



is a significant risk that ARES' customers will be called upon to help fund the clean coal contracts the eligible customers cannot. Accordingly, ICEA urges the IPA to eliminate the costly, unnecessary, and unsupported proposal to procure electricity from a clean coal facility.

Respectfully submitted,
Kevin Wright, President
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